

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee

3 Representative Frishe offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 161.041, Florida Statutes, is amended
8 to read:

9 161.041 Permits required.—

10 (1) If a ~~any~~ person, firm, corporation, county,
11 municipality, township, special district, or ~~any~~ public agency
12 desires to make any coastal construction or reconstruction or
13 change of existing structures, or any construction or physical
14 activity undertaken specifically for shore protection purposes,
15 or other structures and physical activity including groins,
16 jetties, moles, breakwaters, seawalls, revetments, artificial
17 nourishment, inlet sediment bypassing, excavation or maintenance
18 dredging of inlet channels, or other deposition or removal of
19 beach material, or construction of other structures ~~if~~ of a
20 solid or highly impermeable design, upon state sovereignty lands

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21 ~~of Florida,~~ below the mean high-water line of any tidal water of
22 the state, a coastal construction permit must be obtained from
23 the department before ~~prior to~~ the commencement of such work.
24 The department may exempt interior tidal waters of the state
25 from the permit requirements of this section. ~~No such~~
26 ~~development shall interfere,~~

27 (a) Except during construction, such development may not
28 interfere with the public use ~~by the public~~ of any area of a
29 beach seaward of the mean high-water line unless the department
30 determines that the ~~such~~ interference is unavoidable for
31 purposes of protecting the beach or an ~~any~~ endangered upland
32 structure. ~~The department may require,~~ As a condition of ~~to~~
33 granting permits under this section, the department may require
34 the provision of alternative access if ~~when~~ interference with
35 public access along the beach is unavoidable. The width of such
36 alternate access may not be required to exceed the width of the
37 access that will be obstructed as a result of the permit being
38 granted. ~~Application for coastal construction permits as defined~~
39 ~~above shall be made to the department upon such terms and~~
40 ~~conditions as set forth by rule of the department.~~

41 (b) Except for the deepwater ports identified in s.
42 403.021(9)(b), the department shall not issue a ~~any~~ permit for
43 the construction of a coastal inlet jetty or the excavation or
44 maintenance of such an inlet if the activity authorized by the
45 permit will have a significant adverse impact on the sandy
46 beaches of this state without a mitigation program approved by
47 the department. In evaluating the mitigation program, the
48 department shall consider ~~take into consideration~~ the benefits
49 of the long-term sand management plan of the permittee and the

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50 overall public benefits of the inlet activity.

51 (2) The department may authorize an excavation or erection
52 of a structure at any coastal location upon receipt of an
53 application from a property or riparian owner and upon
54 consideration of facts and circumstances, including:

55 (a) Adequate engineering data concerning inlet and
56 shoreline stability and storm tides related to shoreline
57 topography;

58 (b) Design features of the proposed structures or
59 activities; and

60 (c) Potential effects ~~impacts~~ of the location of such
61 structures or activities, including potential cumulative effects
62 of any proposed structures or activities upon such beach-dune
63 system or coastal inlet, which, in the opinion of the
64 department, clearly justify such a permit.

65 (3) The department may require ~~such~~ engineer
66 certifications as necessary to assure the adequacy of the design
67 and construction of permitted projects. Reasonable assurance is
68 demonstrated if the permit applicant provides competent
69 substantial evidence based on plans, studies, and credible
70 expertise that accounts for naturally occurring variables that
71 might reasonably be expected.

72 (4) The department may, as a condition to ~~the~~ granting ~~of~~
73 a permit under this section, require mitigation, financial, or
74 other assurances acceptable to the department as ~~may be~~
75 necessary to assure performance of the conditions of a permit or
76 enter into contractual agreements to best assure compliance with
77 any permit conditions. Biological and environmental monitoring
78 conditions included in the permit must ~~shall~~ be based upon

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79 clearly defined scientific principles. The department may also
80 require notice of the required permit conditions ~~required~~ and
81 the contractual agreements entered into pursuant to ~~the~~
82 ~~provisions of~~ this subsection to be filed in the public records
83 of the county in which the permitted activity is located.

84 (5) Notwithstanding any other provision of law, the
85 department may issue permits pursuant to this part in advance of
86 the issuance of an incidental take authorization provided under
87 the Endangered Species Act and its implementing regulations if
88 the permits and authorizations include a condition that requires
89 that such authorized activities not begin until the incidental
90 take authorization is issued.

91 (6) The department shall adopt rules to address standard
92 mixing zone criteria and antidegradation requirements for
93 turbidity generation for beach management and inlet bypassing
94 permits that involve the excavation and placement of sediment in
95 order to reduce or eliminate the need for variances. In
96 processing variance requests, the department must consider the
97 legislative declaration that, pursuant to s. 161.088, beach
98 nourishment projects are in the public interest.

99 (7) Application for permits shall be made to the
100 department upon such terms and conditions as set forth by rule.

101 (a) If, as part of the permit process, the department
102 requests additional information, it must cite applicable
103 statutory and rule provisions that justify any item listed in a
104 request for additional information.

105 (b) The department may not issue guidelines that are
106 enforceable as standards for beach management, inlet management,
107 and other erosion control projects without adopting such

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108 guidelines by rule.

109 (8) The Legislature intends to simplify and expedite the
110 permitting process for the periodic maintenance of previously
111 permitted and constructed beach nourishment and inlet management
112 projects under the joint coastal permit process. A detailed
113 review of a previously permitted project is not required if
114 there have been no substantial changes in project scope and past
115 performance of the project indicates that the project has
116 performed according to design expectations. The department
117 shall amend chapters 62B-41 and 62B-49, Florida Administrative
118 Code, to streamline the permitting process for periodic beach
119 maintenance projects and inlet sand bypassing activities.

120 (9) Joint coastal permits issued for activities falling
121 under this section and part IV of chapter 373 must allow for two
122 maintenance or dredging disposal events or a permit life of 15
123 years, whichever is greater.

124 Section 2. Subsection (20) of section 161.101, Florida
125 Statutes, is amended to read:

126 161.101 State and local participation in authorized
127 projects and studies relating to beach management and erosion
128 control.-

129 (20) The department shall maintain active ~~a current~~
130 project listings on its website by fiscal year in order to
131 provide transparency regarding those projects receiving funding
132 and the funding amounts, and to facilitate legislative reporting
133 and oversight. In consideration of this intent: ~~listing and~~
134 may, in its discretion and dependent upon the availability of
135 local resources and changes in the criteria listed in subsection
136 (14), ~~revise the project listing.~~

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137 (a) The department shall notify the Executive Office of
138 the Governor and the Legislature regarding any significant
139 changes in the funding levels of a given project as initially
140 requested in the department's budget submission and subsequently
141 included in approved annual funding allocations. The term
142 "significant change" means those changes exceeding 25 percent of
143 a project's original allocation. If there is surplus funding,
144 notification shall be provided to the Executive Office of the
145 Governor and the Legislature to indicate whether additional
146 dollars are intended to be used for inlet management pursuant to
147 s. 161.143, offered for reversion as part of the next
148 appropriations process, or used for other specified priority
149 projects on active project lists.

150 (b) A summary of specific project activities for the
151 current fiscal year, funding status, and changes to annual
152 project lists shall be prepared by the department and included
153 with the department's submission of its annual legislative
154 budget request.

155 (c) A local project sponsor may at any time release, in
156 whole or in part, appropriated project dollars by formal
157 notification to the department, which shall notify the Executive
158 Office of the Governor and the Legislature. Notification must
159 indicate how the project dollars are intended to be used.

160 Section 3. Paragraph (v) is added to subsection (1) of
161 section 403.813, Florida Statutes, to read:

162 403.813 Permits issued at district centers; exceptions.—

163 (1) A permit is not required under this chapter, chapter
164 373, chapter 61-691, Laws of Florida, or chapter 25214 or
165 chapter 25270, 1949, Laws of Florida, for activities associated

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166 with the following types of projects; however, except as
167 otherwise provided in this subsection, nothing in this
168 subsection relieves an applicant from any requirement to obtain
169 permission to use or occupy lands owned by the Board of Trustees
170 of the Internal Improvement Trust Fund or any water management
171 district in its governmental or proprietary capacity or from
172 complying with applicable local pollution control programs
173 authorized under this chapter or other requirements of county
174 and municipal governments:

175 (v) Notwithstanding any other provision in this chapter,
176 chapter 373, or chapter 161, a permit or other authorization is
177 not required for the following exploratory activities associated
178 with beach restoration and nourishment projects and inlet
179 management activities:

180 1. The collection of geotechnical, geophysical, and
181 cultural resource data, including surveys, mapping, acoustic
182 soundings, benthic and other biologic sampling, and coring.

183 2. Oceanographic instrument deployment, including
184 temporary installation on the seabed of coastal and
185 oceanographic data collection equipment.

186 3. Incidental excavation associated with any of the
187 activities listed under subparagraph (1) or subparagraph (2).

188 Section 4. This act shall take effect July 1, 2012.
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191 **T I T L E A M E N D M E N T**

192 Remove the entire title and insert:

193 An act relating to beach management; amending s. 161.041, F.S.;
194 specifying that demonstration to the Department of Environmental

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 691 (2012)

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195 Protection of the adequacy of a project's design and
196 construction is supported by certain evidence; authorizing the
197 department to issue permits for an incidental take authorization
198 under certain circumstances; requiring the department to adopt
199 certain rules involving the excavation and placement of
200 sediment; requiring the department to justify items listed in a
201 request for additional information; requiring the department to
202 adopt guidelines by rule; providing legislative intent with
203 regard to permitting for periodic maintenance of certain beach
204 nourishment and inlet management projects; requiring the
205 department to amend specified rules to streamline such
206 permitting; amending s. 161.101, F.S.; requiring the department
207 to maintain certain beach management project information on its
208 website; requiring the department to notify the Governor's
209 Office and the Legislature concerning any significant changes in
210 project funding levels; amending s. 403.813, F.S.; providing a
211 permit exception for certain specified exploratory activities
212 relating to beach restoration and nourishment projects and inlet
213 management activities; providing an effective date.